

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL BERNARD LEVINO,

Defendant-Appellant.

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UNPUBLISHED

January 24, 2003

No. 234429

Oakland Circuit Court

LC No. 00-174957-FH

Before: Bandstra, P.J., and Cavanagh and Talbot, JJ.

MEMORANDUM.

Defendant appeals as of right his jury conviction for false pretenses over \$1,000 but less than \$20,000, MCL 750.218(4)(a), and use of a forged driver's license, MCL 257.310(7). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant argues that there was insufficient evidence of detrimental reliance to support his conviction for false pretenses. In determining whether sufficient evidence has been presented to sustain a conviction, a reviewing court must view the evidence in a light most favorable to the prosecution, and determine whether any rational finder of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992).

The elements of false pretenses are: (1) the defendant must have used a pretense or made a false statement relating to an existing fact; (2) at the time he made or used the pretense, he knew it was false; (3) the defendant must have intended to defraud or cheat someone; (4) the person alleged to have been defrauded must have relied on the false pretense; and (5) in so relying, the person must have suffered the loss of money or other valuable thing. *People v Peach*, 174 Mich App 419, 422-423; 437 NW2d 9 (1989).

The purpose of the statute is to protect the unwary and negligent from deceit of those who would take advantage of them. For this reason, the element of reliance by the victim is essential. *People v Wogaman*, 133 Mich App 823; 350 NW2d 816 (1984). A victim's knowledge of the deceit negates the element of detrimental reliance. *Id.*; *People v Wilde*, 42 Mich App 514; 202 NW2d 542 (1972).

The prosecution presented sufficient evidence of detrimental reliance on defendant's false representations. Although the customer services representative was suspicious of defendant, the

bank's loss prevention department directed her to disburse the loan proceeds on the basis of the information provided by defendant. Unlike *Wogaman* and *Wilde, supra*, the bank did not make the payments knowing that defendant was seeking to commit a fraud. There was sufficient evidence to support the conviction.

Affirmed.

/s/ Richard A. Bandstra

/s/ Mark J. Cavanagh

/s/ Michael J. Talbot